

**REMARKS**

***Formal Matters***

Applicants thank the Examiner for acknowledging Applicants' election without traverse of Group I, claims 1, 2, and 13-16 in the reply filed on October 17<sup>th</sup>, 2006.

Applicants also thank the Examiner for acknowledging the references submitted with the Information Disclosure Statements filed on September 16<sup>th</sup>, 2003, and January 12<sup>th</sup>, 2004.

However, on the Information Disclosure Statement filed on September 16<sup>th</sup>, 2003, Applicants respectfully request the Examiner to clearly indicate that the foreign patent document, JP-4-95700 has been considered. On the form, it appears that the Examiner mistakenly initials a box not corresponding to any of the references submitted. Furthermore, the Examiner is respectfully requested to consider the Information Disclosure Statement filed on June 1<sup>st</sup>, 2004.

Applicants also request the Examiner to acknowledge the claim to foreign priority made in the "Reissue Application Declaration by the Inventor", and receipt of a certified copy of the priority documents, both filed on September 16<sup>th</sup>, 2003.

***Claims***

Claims 1, 2, and 13-16 have been examined. Claims 3-12 and 17 have been canceled without prejudice or disclaimer.

Claims 18-21 have been added which are supported by *at least* Page 18, lines 10-13, and Page 11, lines 3-23 of the specification. Hence, claims 1, 2, 13-16, and 18-21 are all the claims pending in the application.

***Allowable Subject Matter***

Applicants thank the Examiner for indicating that claims 2 and 14-16 would be allowed if rewritten in independent form. However, Applicants respectfully request that the Examiner hold in abeyance such rewriting until the Examiner has had an opportunity to reconsider and withdraw the prior art rejection of the other claims as discussed below.

***Claim Rejections - 35 U.S.C. § 102***

Claims 1 and 13 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,308,593 to Kobayashi *et al* (“Kobayashi”). For at least the following reasons, Applicants respectfully traverse the rejection.

Claim 13

Applicants respectfully submit that claim 13 is patentable over Kobayashi. For example, claim 13 recites a system for preparing one or more materials in a batch process comprising, *inter alia*, means for allocating a calculated amount of the material to a following predetermined number of batches *if the calculated necessary amount is less than a predetermined amount*. The Examiner alleges that the photographic liquid preparation device illustrated in Figure 1 of Kobayashi suggests the system of claim 13 and the measuring units 3a-3h suggest the means for allocating as set forth in claim 13. Furthermore, the Examiner alleges that the predetermined amount “would have to be less than the capacity of pot 5a and more than a minimum amount of zero, as claimed” (Office Action, Pages 2-3). However, Applicants respectfully submit that Kobayashi does not disclose the above noted features of claim 13 in as complete detail as set forth in the claim.

For instance, Kobayashi does not disclose or suggest “means for allocating the calculated amount of the material to following predetermined number of batches *if the calculated necessary amount is less than a predetermined amount*”. In the operation of the device for preparing a photographic liquid disclosed by Kobayashi, Kobayashi states that:

“An empty pot was first moved to a chemical measuring station A which measures the chemicals a, b, c and d for the preparation of an emulsion for the first layer. The pot 5a was stopped at the station A. The necessary chemicals a, b, c and d were measured by oval gear flow meters 3a, 3b, 3c and 3d so that *prescribed quantities of the chemicals were put in the pot as the chemicals were regulated by control valves 4*” (Kobayashi, Column 4, lines 51-59, emphasis added).

The *prescribed quantities* of the chemicals disclosed by Kobayashi, as discussed above, are not “put in the pot” based on whether the prescribed quantity is less than a predetermined amount. In various other portions of Kobayashi as well, Kobayashi discloses that the measured chemicals are supplied to a pot (Kobayashi, Column 2, lines 31-37, lines 52-57, Column 3, lines 51-54, etc.). However, Kobayashi does not disclose or suggest that the supply of chemicals to the pot 5a is subject to any conditions, much less supplying the chemicals to a pot 5a if the amount of chemicals is less than a predetermined amount.

In order to anticipate a claim, not only must the reference teach every element of the claim, but “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), cited in MPEP §2131. Here, Kobayashi does not disclose or suggest “means for allocating the calculated amount of the material to following predetermined number of batches *if the calculated necessary amount is less than a predetermined amount*”.

As such, Applicants respectfully submit claim 13 contains allowable subject matter and request the Examiner to withdraw the 35 U.S.C. § 102(b) rejection.

**Claim 1**

The Examiner contends that the method set forth in claim 1 “would be inherent during normal use and operation of the device” of Kobayashi (Office Action, Page 3). Claim 1 recites a method comprising features analogous to those discussed above with respect to claim 13, specifically, claim 1 recites “allocating the calculated amount of the material to following predetermined number of batches *if the calculated necessary amount is less than a predetermined amount*”. Since Kobayashi does not disclose the noted features of claim 1 as discussed above with respect to claim 13, Applicants respectfully submit claim 1 is patentable for *at least* reasons analogous to those given above with respect to claim 13.

***New Claims***

In order to provide more varied protection, Applicants hereby add claims 18-21 which are patentable *at least* by virtue of their dependency on claims 1 and 13.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

**AMENDMENT UNDER 37 C.F.R. § 1.111**  
**U.S. Application No. 10/662,948**

**Attorney Docket No.: Q76525**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

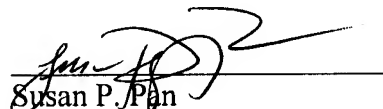
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**23373**

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